

Notice of Allowability

Application No.

09/848,121

Applicant(s)

KRALL ET AL.

Examiner

Art Unit

Kennedy Schaetzle

3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the telephonic interview of August 31, 2005.
2. ☒ The allowed claim(s) is/are 1-7, 9-28, 30-43 and 45-51.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>08312005</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Wayne House on August 31, 2005.

The application has been amended as follows:

.....

CLAIMS

Claim 1

On line 1, the word "Original" was replaced with the phrase –
Currently Amended--.

On line 4, the word "a" was deleted, and the word "polymer" was
replaced by the term –PTFE--.

Claim 8 was deleted.

Claim 9

On line 1, the word "Original" was replaced with the phrase –
Currently Amended--.

On line 1 the number "8" was replaced by the number –1--.

Claim 13

On line 1, the word "Original" was replaced with the phrase –
Currently Amended--.

On line 1 the word "polymer" was replaced by the term –PTFE--.

Claim 22

On line 1, the word "Original" was replaced with the phrase –
Currently Amended--.

On line 4, the word "a" was deleted, and the word "polymer" was
replaced by the term –PTFE--.

Claim 29 was deleted.

Claim 30

On line 1, the word "Original" was replaced with the phrase –
Currently Amended--.

On line 1 the number "29" was replaced by the number –22--.

Claim 42

On line 2, the word "an" was replaced by the phrase –a
defibrillation--.

On line 3, the second occurrence of the word "a" was deleted, and
the word "polymer" was replaced by the term –PTFE--.

Claim 44 was canceled.

Claim 45

On line 1, the word "Original" was replaced with the phrase –
Currently Amended--.

On line 1 the number "44" was replaced by the number –42--.

Claim 48

On line 1, the word "Original" was replaced with the phrase –
Currently Amended--.

On line 1, the word "polymer" was replaced by the term --PTFE--.

.....

Reasons for Allowance

2. The following is an examiner's statement of reasons for allowance: the art of record fails to disclose the use of an implantable defibrillation lead having an electrode cover comprising porous PTFE having a thickness of less than about 0.13 mm, and being electrically non-conductive in a dry state. Criticality for the thickness is given throughout the present specification (e.g., note page 2, lines 12-22). Similar comments apply to claims 22 and 42. Regarding the Hoffmann et al. reference, there is no suggestion to utilize a cover comprising porous PTFE. Hoffmann et al., in fact, teach away from such a material when discussing the Dahl et al. reference (a reference which employs ePTFE) in col. 4, lines 4-19.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kennedy Schaetzle whose telephone number is 571 272-4954. The examiner can normally be reached on M-W and F from 9:30 -6:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on M-F at 571 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3762

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KJS

August 31, 2005



KENNEDY SCHAEETZLE
PRIMARY EXAMINER